

Date of Mailing: March 5, 2001

ATTORNEY'S DOCKET NO: M0459/7019DW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Carlos Van Alboom et al.
Serial No: Not Yet Assigned
Filed: Herewith
For: Improved Printed Flocked Pile Fabric and Method for Making Same

BOX PATENT APPLICATION
Commissioner for Patents
Washington, D.C. 20231

PRELIMINARY AMENDMENT

Sir:

Before beginning examination of the above-identified application on its merits, please consider the following.

REMARKS

The enclosed application for U.S. Patent, which is a continuation of U.S. Patent Application Serial No. 09/089,784, includes new claims 1-20. Claims 1-20 have been added for the purpose of more fully defining the Applicants' contribution to the art.

New claim 21 is substantially equivalent to rejected claim 4 of the parent application, except: the limitation requiring that the fibers forming the flocking have a substantial uniform layer, which limitation the Applicants assert is not required to distinguish prior art of record, has been removed, thereby broadening the claim; and the washing step now recites washing 'uncompressed' greige goods, as opposed to 'uncrumpled' greige goods as recited in claim 4 of the parent application. It is asserted that since 'uncompressed' is a sub-category of the more expansive 'uncrumpled' limitation, this change also broadens the scope of the claim, as compared to claim 4 of the parent application (e.g. fabrics that are crumpled, but not compressed during the washing step are now within the scope of the claim), and can in no sense be construed in any way as narrowing the scope of the previously pending claim.

In the Final Office Action of the parent application (Paper No. 7, mailed August 8, 2000), the Examiner asserts that the term 'uncrumpled' is new matter because the specification does not clearly teach that the greige goods are in an uncrumpled state during washing. The Examiner

asserts that the disclosure is silent with respect to an 'uncrumpled' state and that there is likely to be at least some degree of crumpling during the Applicants' disclosed washing methods.

Without conceding the merits of the Examiner's prior rejection, the Applicants have, in claim 21 of the present application, replaced the limitation 'uncrumpled' with 'uncompressed,' which limitation is clearly supported by the Applicants' specification. The Examiner in the previous rejection cited MPEP §2173.05(i) to support her assertion that negative limitations or exclusionary provisos must have basis in the original disclosure. The Applicants point out, however, that such disclosure need not be explicit, but rather may be an inherent function, feature, property, etc. of the Applicants' disclosed methods (see MPEP §2163.07(a)). The Applicants assert that one of ordinary skill in the art would be readily aware that the Applicants' disclosed fabric washing procedures inherently involve washing the fabrics in an essentially uncompressed state, wherein they are not subjected to externally applied compressive forces tending to crush, squeeze, or ball-up the washed fabrics. Accordingly, the Applicants assert that the above-mentioned limitation of claim 21 is fully supported under 35 U.S.C. §112, paragraph 1, by the Applicants' written description. Furthermore, as the Examiner has conceded, the presence of such limitation is sufficient to distinguish the claimed subject matter over the prior art of record (see section 4 of the above-mentioned Final Office Action).

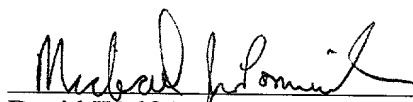
CONCLUSION

On the basis of the above remarks, it is believed that claims 1-21 define patentable subject matter and are in condition for allowance. An early notice to that effect is respectfully requested.

If, for any reason, the Examiner believes that a telephone conversation with Applicants' representative would expedite prosecution, the Examiner is invited to contact the undersigned at (617) 720-3500. Please charge any fee or fee deficiency occasioned by this amendment to Deposit Account No. 23/2825.

Respectfully submitted

By:


David Wolf, Reg. No. 17,528
Michael J. Pomianek, Reg. No. 46,190

Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Tel. No.: (617) 720-3500
Attorney's for Applicant(s)

Docket No. M0459/7019DW
Date: March 5, 2001

517832.1